

Recording Requested by and  
When Recorded Mail to:

City of Milpitas  
455 East Calaveras Boulevard  
Milpitas, CA 95035  
Attention: Office of the City Clerk

Record without fee under  
Section 6103 - Government Code  
State of California

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**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS APPROVING INITIAL  
ACCEPTANCE AND REDUCING PERFORMANCE BOND OF THE SANTA CLARA VALLEY  
TRANSPORTATION AUTHORITY (VTA) SILICON VALLEY BERRYESSA EXTENSION  
PROJECT, MILPITAS STATION SURFACE PARKING AND ROADWAY,  
VTA PROJECT NO. C740**

**WHEREAS**, the City of Milpitas has heretofore entered into a Master Agreement with the Santa Clara Valley Transportation Authority (VTA) for work including the subject project; and

**WHEREAS**, VTA contracted with Ghilotti Construction Company, Inc. (GCCCI) to complete this work of VTA Project C740, consisting of curb, gutter, sidewalk, streets, utilities, traffic signal equipment, and surface parking lot; and

**WHEREAS**, the City of Milpitas issued a joint encroachment permit to VTA and GCCCI to permit the construction of the South Milpitas Boulevard extension (future City of Milpitas facility and right-of-way) per VTA Project No. C740 in accordance with the approved VTA plans and specifications; and

**WHEREAS**, GCCCI has completed the work in accordance with the approved VTA Project No. C740 plans and specifications; and

**WHEREAS**, the City Engineer of the City of Milpitas has recommended acceptance of said portions of the improvement to be owned and maintained by the City in the future as completed in accordance with plans, specifications and approved change orders and corrections lists, and in accordance with the final inspection of said City Engineer.

**NOW, THEREFORE**, the City Council of the City of Milpitas hereby finds, determines, and resolves as follows:

1. The City Council has considered the full record before it, which may include but is not limited to such things as the staff report, testimony by staff and the public, and other materials and evidence submitted or provided to it. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.
2. The City of Milpitas does hereby accept said improvement as completed on this 19th day of April, 2016, and does hereby authorize and direct the City Engineer of the City of Milpitas to file a Notice of Completion in accordance with the provisions of Sections 8182 and 9200-9208 of the Civil Code of the State of California, and does hereby authorize and direct the City Engineer to file a Certificate of Completion in accordance with the provisions of Section 4005 of the Government Code of the State of California, if said work was by day's

labor or force account. The penal sum of the faithful performance bond securing said improvement may be reduced to the sum of \$171,300 upon request of principal and surety, with said penal sum as reduced to apply from the date of completion and acceptance of said improvements and to extend for the balance of the term of said bond, provided that said term shall not be less than one year.

PASSED AND ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2016, by the following  
vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

\_\_\_\_\_  
Mary Lavelle, City Clerk

\_\_\_\_\_  
Jose S. Esteves, Mayor

APPROVED AS TO FORM:

\_\_\_\_\_  
Christopher J. Diaz, City Attorney

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CITY OF MILPITAS

NOTICE OF COMPLETION

(Civil Code Sections 8182 and 9200-9208)

NOTICE IS HEREBY GIVEN:

1. On or about April 30, 2015, the City of Milpitas, a municipal corporation of the State of California, whose address is City Hall, 455 East Calaveras Boulevard, Milpitas, California, 95035 (as owner) entered into a joint encroachment permit for the work within future City rights-of-way for: VTA Project No. C740.
2. A description of the site of which the City is, or will be, owner for said work of improvement is: South Milpitas Boulevard between East Capitol Avenue and Gladding Court in the City of Milpitas, Santa Clara County, California, more particularly described on the plans.
3. The nature and interest or estate of the City as owner of said site is: City of Milpitas.
4. The name and address of the original contractor is: Ghilotti Construction Company, Inc., 246 Ghilotti Avenue, Santa Rosa, CA 95407.
5. A general statement of the kind of work done or materials furnished to the City is as follows: portion of South Milpitas Boulevard including curb, gutter, sidewalk, street, utilities, lighting and traffic signal equipment.
6. The name of the sureties upon the bond of the contractor for said work of improvement is: Liberty Mutual Insurance Company, 175 Berkeley Street, Boston, MA 02116; Bond #070020091.
7. Said work of improvement was accepted by the Milpitas City Council as completed on April 19th, 2016.

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I, the undersigned, declare that I am the **City Engineer** of the City of Milpitas and am authorized to execute the foregoing Notice of Completion and this Verification thereof. I have read the foregoing Notice of Completion. I declare under penalty of perjury that the foregoing Notice of Completion is true and correct. Executed on \_\_\_\_\_, 2016 at Milpitas, California.

\_\_\_\_\_  
Steven Machida, Director of Engineering/City Engineer, City of Milpitas

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NOTE: RECORD WITHIN 15 DAYS OF ACCEPTANCE WITH COUNTY RECORDER OF SANTA CLARA COUNTY



March 8, 2016

RECEIVED

MAR 21 2016

CITY OF MILPITAS  
ENGINEERING DIVISION

Mr. Steve Machida  
City Engineer  
City of Milpitas  
455 East Calaveras Blvd.  
Milpitas, CA 95035-5479

Subject: S. Milpitas Boulevard – C740 Milpitas Station Surface Parking and Roadway  
Request for Initial Acceptance and Approach to Warranty Period

Dear Mr. Machida:

In cooperation with the City of Milpitas and per the terms of the VTA/City of Milpitas Master Agreement, VTA is constructing an extension of South Milpitas Boulevard (SMB) from Montague Expressway to Capitol Avenue. This future city street is being constructed under three separate VTA contracts (C700, C740, and C640), and final landscaping and irrigation in SMB will be constructed by a landscape contract (C741). The locations of the street segments relative to each construction contract's limits of work are shown on Exhibit A (attached).

VTA recently completed construction of the center segment of SMB under the C740 Milpitas Station Surface Parking and Roadway contract. Since construction of the adjacent roadway segments will continue into 2017, certain elements of the C740 contract's original scope (such as the final testing and activation of the traffic signal system) cannot be completed until the adjacent contracts have progressed further, which City staff has acknowledged. This letter confirms that the City has agreed to the approach of shifting the testing and activation scope elements from the C740 contract to the C640 contract.

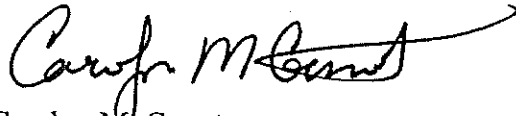
VTA requests the City of Milpitas concur with and take immediate necessary actions toward an initial acceptance of the work constructed under the C740 contract, once all final punch-list items are completed. Specifically, VTA asks City staff to immediately recommend that the City Council grant its initial acceptance of the portion of SMB constructed by the C740 contractor, Ghilotti Construction. The City's timely initial acceptance will allow VTA to issue its own final acceptance and release Ghilotti from its bonds.

As discussed with City staff, VTA's issuance of final acceptance to the C740 contractor, Ghilotti, will commence the one-year warranty period on the work required under the C740 contract and as required by the City's Encroachment Permit. In support of the City and to mitigate any concerns the City may have regarding warranty coverage, VTA agrees to maintain the newly constructed segment(s) of SMB and provide a warranty coextensive with the warranty Ghilotti was required to provide under the C740 contract for one year after the City issues final acceptance of the entire roadway extension (C740, C700 and

C640 as shown in Exhibit A) and assumes operations and maintenance responsibility of the roadway. VTA recommends that the approaches for initial acceptance and release of Ghilotti's bonding, as well as VTA's one-year warranty be formalized through an amendment to the VTA/City of Milpitas Master Agreement. VTA will take the initial steps to draft an amendment.

If you would like to discuss this matter further, please contact me at (408)942-6105 or Margaret Simmons-Cross of my staff at (408)942-6199.

Sincerely,



Carolyn M. Gonot  
Director, Engineering & Transportation Infrastructure Development.

Attachments – Exhibit A

cc. Tom Williams, City of Milpitas  
Chris Diaz, City of Milpitas  
Glenn Ritter, City of Milpitas  
Dennis Ratcliffe, VTA  
John Engstrom, VTA  
Margaret Simmons-Cross, VTA



